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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4280/2025, CM APPL. 19795/2025 & CM APPL. 19796/2025

SHISHIR WASANT BORLE .....Petitioner

Through: Mr. Nikhil Goyal & Mr. Bankim Garg, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE 67 1, DELHI & ANR. .....Respondents

Through: Mr. Anurag Ojha, Sr. Standing Counsel with Ms. Hemlata Rawat, Jr.SC, Mr. V.K. Saksena, Jr.SC with Mr. Dipak Raj & Mr. Subham Kumar, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **04.04.2025**

1. Issue notice. The learned counsel for Revenue accepts notice.

2. The petitioner has filed the present petition, *inter alia*, praying as under:

> "(i) Issuance a writ in the nature of Certiorari for quashing of a letter dated 10.01.2020 (Annexure P-12) being illegal and contrary to the provisions of the Act;
> (ii) Issue a writ in the nature of Certiorari for quashing demand reference 2012201110023785892T in AY22 2011-12, and demand reference 2013201237048723512T in AY 2012-13, (Annexure P-9), created by the Respondents being illegal and contrary to the provisions of the Act;
>
> (iii) Issue a writ in the nature of Certiorari, quashing the

> adjustment of the refund for the Assessment Year 2020-21 against the alleged outstanding demand for the Assessment Year 2011-12, being illegal and bad in law. Further, direct the Respondents to refund the sum of Rs. 1,38,390/-, which was unlawfully adjusted on 12.02.2021, as communicated vide intimation dated 10.02.2021 (Annexure P-7), along with interest as per the provisions of the Act
> (iv) Issue a writ in the nature of Mandamus directing the Respondents to extinguish the demand created against the Petitioner for AY 2011-12 and AY 2012-13 in terms of section 205 of the Act;
> (v) Issue a writ in the nature of Mandamus restraining the Respondents from adjusting any refund due to the petitioner against any demand reflected for the AYs 2011-12, and 2012-13;"

3. The petitioner has filed the present petition impugning an letter dated 10.01.2020 passed by the Assistant Commissioner of Income Tax Circle 69(1), Delhi [AO] calling upon the petitioner to pay an outstanding demand of ₹7,63,340/- in respect of assessment year [**AY**] 2011-12 and ₹7,96,240/- in respect of AY 2012-13. The said demands have been raised pursuant to an intimation under Section 143(1)(a) of the Act. The demand is on account of failure on the part of the petitioner's then employer Kingfisher Airlines Ltd. to deposit the tax deducted at source [TDS]. There is no cavil that the Kingfisher Airlines Ltd. had deducted TDS on the salaries paid to the petitioner which were not deposited with the department resulting in the outstanding demand.

4. Concededly, the issue involved in the present case is covered by the decision by this Court in ***Sanjay Sudan v. Assistant Commissioner of Income*-tax: Neutral Citation: 2023:DHC:1342** as well as other decisions.

5. The Revenue has recovered part of the said demand by

adjustment of the refund is due in later assessment years.

6. In view of the above, the present petition is allowed.

7. The impugned demand, as communicated by the letter dated 10.01.2020, is set aside and any adjustment made by the Revenue from the refunds due to the petitioner in respect of other assessment years are directed to be refunded to the petitioner as expeditiously as possible and preferably within a period of eight weeks from date.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 04, 2025/*'A'*

<u>*Click here to check corrigendum, if any*</u>